

**In the Drawings:**

Please delete sheets 3 and 4 and insert instead the attached Replacement Sheets 3 and 4 containing FIGS. 3 through 5.

## **REMARKS**

Claims 1-12 and 19 are pending in the application with the present amendments. Claims 8-10 are amended herein to address the examiner's objections thereto. The term "2%" in these claims equates to 2/100 or 0.02 and the claims are amended accordingly herein. The Specification and the drawings are amended herein in accordance with the examiner's suggestions. No new matter is introduced by way of the present amendments to the drawings or the specification.

Applicants appreciate the early indication of allowability as to claims 4-6, 8-10 and 12. Claims 1-3, 7, and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Sakamoto* (U.S. Patent No. 7,009,768) in view of *Wen et al.* (U.S. Patent Publication 2005/0083520). Claims 1 and 3 were also rejected under 35 U.S.C. §103(a) over art discussed in the background section of the present application.

Applicants respectfully submit that the cited art does not teach or render obvious the features of the claims as amended herein. Fundamentally, applicants respectfully submit that *Sakamoto* is not a proper 35 U.S.C. §103 reference for consideration in relation to claim 1. *Sakamoto* gives no indication that the polarizing beam splitters or phase plates described therein (see col. 1, Ins. 14-23) have any function as a scatterometry target. The present amendments to claim 1 and claim 11 further remove *Sakamoto* from being available as a reference under 35 U.S.C. §103 in that *Sakamoto* fails to teach that any feature of the polarizing beam splitters mimics another microelectronic or microelectromechanical function feature of a substrate in which the

beam splitter is included. In addition, Sakamoto fails to teach that the length of the target is greater than or equal to about 50 times the width of each feature.

With respect to claims 1 and 3, paragraphs [0033] through [0035] of applicants' Specification clearly indicate the unsuitability of prior art patterns (FIGS. 4-5) of wafers for use as scatterometry targets. The present amendments to the claims and the above arguments clearly distinguish the invention recited in claims 1 and 3 from the portions of applicant's Specification cited by the examiner.

In addition, newly presented claim 19 recites a feature which the examiner indicated as rendering claim 4 allowable over the cited art.


Finally, *Wen et al.* does not provide the teachings which Sakamoto lacks with respect to the presently recited invention.

Support for the present amendments is provided, *inter alia*, at paragraphs [0002] through [0004], [0061], [0085], [0091], and [0114].

Accordingly, in view of the amendments and remarks herein, it is believed that all pending claims of the application are now in condition for allowance. However, if for any reason the Examiner does not believe that such action can be taken at this time, the Examiner is requested to telephone the Applicants' attorney at the number indicated below to discuss any issues that may remain.

It is believed that no fee is due in connection with the filing of this Amendment. In particular, the amendment is filed timely within the initial 3 month shortened statutory period since January 2, 2007 was declared a federal holiday within the District of Columbia (National Day of Mourning). However, if any fee is due, authorization is granted to debit the Deposit Account No. 09-0458 of the Assignee. If there is an overpayment, please credit the same account.

Respectfully submitted,  
**Charles N. Archie et al.**

By:   
\_\_\_\_\_  
Daryl K. Neff, Attorney  
Registration No. 38,253  
Telephone: (973) 316-2612